

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT  
AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE  
RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

FILED BY CLERK

SEP 12 2008

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,	)	
	)	
Respondent,	)	2 CA-CR 2008-0094-PR
	)	DEPARTMENT A
v.	)	
	)	<u>MEMORANDUM DECISION</u>
	)	Not for Publication
DONNELL THOMAS,	)	Rule 111, Rules of
	)	the Supreme Court
Petitioner.	)	
	)	

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PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20022184

Honorable Kenneth Lee, Judge

REVIEW GRANTED; RELIEF DENIED

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Donnell Thomas

Winslow  
In Propria Persona

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B R A M M E R, Judge.

¶1 Petitioner Donnell Thomas seeks review of the trial court's order of February 13, 2008, denying post-conviction relief on a "writ of coram nobis" Thomas filed on January 31, 2008.

¶2 The following factual summary is drawn from our decision in *State v. Thomas*, No. 2 CA-CR 2007-0215-PR (memorandum decision filed Dec. 6, 2007), on Thomas’s previous petition for review:

Following a jury trial at which he had chosen to represent himself, petitioner Donnell Thomas was convicted of one count of armed robbery, a dangerous-nature offense. He was sentenced to a presumptive, 15.75-year term of imprisonment, which he is serving concurrently with sentences of 4.5, 11.25, and twenty-one years simultaneously imposed in two other causes. After his conviction and sentence in this case were affirmed on appeal in *State v. Thomas*, No. 2 CA-CR 2003-0152 (memorandum decision filed May 20, 2005), Thomas in August 2006 filed a petition for post-conviction relief pursuant to Rule 32, Ariz. R. Crim. P.

(Footnotes omitted.) The trial court summarily dismissed that petition, and we approved its ruling on review in cause No. 2 CA-CR 2007-0215-PR.

¶3 Thomas next filed the writ of coram nobis from which the present petition arises. In it, he challenged his sentence on an assortment of legal theories that were not well explained and are difficult to summarize concisely. Treating the writ as an application for post-conviction relief pursuant to Rule 32, the court found his sentencing claim precluded because Thomas had raised the same issue in his first petition for post-conviction relief. *See* Ariz. R. Crim. P. 32.2(a)(2). And it rejected his claim that enhancing his sentence using a prior murder conviction obtained under statutes that were later repealed constituted a “bill of attainder.”

¶4 We will not disturb a trial court's denial of post-conviction relief unless the court has clearly abused its discretion. *State v. Bennett*, 213 Ariz. 562, ¶ 17, 146 P.3d 63, 67 (2006). Thomas has demonstrated no such abuse here. The trial court in its minute entry clearly identified, adequately analyzed, and correctly ruled on the sentencing issue, previously raised and now precluded, that Thomas sought to reassert in his writ of coram nobis. We approve and thus adopt the court's analysis. *See generally State v. Whipple*, 177 Ariz. 272, 866 P.2d 1358 (App. 1993).

¶5 Although we grant the petition for review, we find no abuse of the trial court's discretion and therefore deny relief.

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J. WILLIAM BRAMMER, JR., Judge

CONCURRING:

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JOHN PELANDER, Chief Judge

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JOSEPH W. HOWARD, Presiding Judge